

§ 59.50 Priority list.

(a) The Secretary will make a list prioritizing the applications that were received on or before August 15 and that were approved under § 59.20 of this part. Except as provided in paragraphs (b) and (c) of this section, applications will be prioritized from the highest to the lowest in the following order:

(1) *Priority group 1.* An application from a State that has made sufficient funds available for the project for which the grant is requested so that such project may proceed upon approval of the grant without further action required by the State (such as subsequent issuance of bonds) to make such funds available for the project. To meet this criteria, the State must provide to VA a letter from an authorized State budget official certifying that the State funds are, or will be, available for the project, so that if VA awards the grant, the project may proceed without further State action to make such funds available (such as further action to issue bonds). If the certification is based on an Act authorizing the project and making available the State's matching funds for the project, a copy of the Act must be submitted with the certification.

(i) *Priority group 1—subpriority 1.* An application for a project to remedy a condition, or conditions, at an existing facility that have been cited as threatening to the lives or safety of the residents in the facility by a VA Life Safety Engineer, a State or local government agency (including a Fire Marshal), or an accrediting institution (including the Joint Commission on Accreditation of Healthcare Organizations). This priority group does not include applications for the addition or replacement of building utility systems, such as heating and air conditioning systems or building features, such as roof replacements. Projects in this subpriority will be further prioritized in the following order: seismic; building construction; egress; building compartmentalization (e.g., smoke barrier, fire walls); fire alarm/detection; asbestos/hazardous materials; and all other projects. Projects in this subpriority will be further prioritized based on the date the application for the project was received in

VA (the earlier the application was received, the higher the priority given).

(ii) *Priority group 1—subpriority 2.* An application from a State that has not previously applied for a grant under 38 U.S.C. 8131–8137 for construction or acquisition of a State nursing home. Projects in this subpriority will be further prioritized based on the date the application for the project was received in VA (the earlier the application was received, the higher the priority given).

(iii) *Priority group 1—subpriority 3.* An application for construction or acquisition of a nursing home or domiciliary from a State that has a great need for the beds that the State, in that application, proposes to establish. Projects in this subpriority will be further prioritized based on the date the application for the project was received in VA (the earlier the application was received, the higher the priority given).

(iv) *Priority group 1—subpriority 4.* An application from a State for renovations to a State Home facility other than renovations that would be included in subpriority 1 of Priority group 1. Projects will be further prioritized in the following order: adult day health care construction; nursing home construction (e.g., patient privacy); code compliance under the Americans with Disabilities Act; building systems and utilities (e.g., electrical; heating, ventilation, and air conditioning (HVAC); boiler; medical gasses; roof; elevators); clinical-support facilities (e.g., for dietetics, laundry, rehabilitation therapy); and general renovation/upgrade (e.g., warehouse, storage, administration/office, multipurpose). Projects in this subpriority will be further prioritized based on the date the application for the project was received in VA (the earlier the application was received, the higher the priority given).

(v) *Priority group 1—subpriority 5.* An application for construction or acquisition of a nursing home or domiciliary from a State that has a significant need for the beds that the State in that application proposes to establish. Projects in this subpriority will be further prioritized based on the date the application for the project was received in VA (the earlier the application was received, the higher the priority given).

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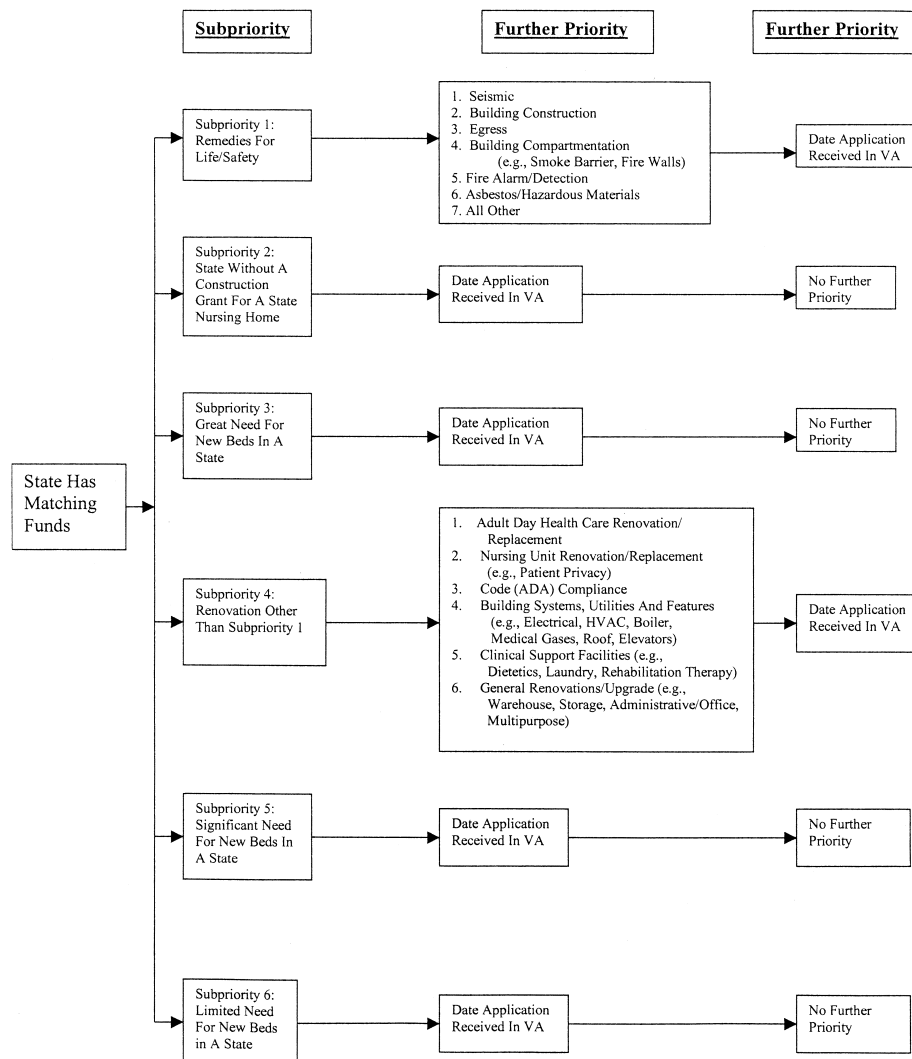
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(vi) *Priority group 1—subpriority 6.* An application for construction or acquisition of a nursing home or domiciliary from a State that has a limited need for the beds that the State, in that application, proposes to establish. Projects in this subpriority will be further prioritized based on the date the

application for the project was received in VA (the earlier the application was received, the higher the priority given).

NOTE TO PARAGRAPH (a)(1): The following chart is intended to provide a graphic aid for understanding Priority group 1 and its subpriorities.

Example – Prioritization for Priority Group 1



(2) *Priority group 2.* An application not meeting the criteria of paragraph (a)(1) of this section but meeting the criteria of paragraph (a)(1)(i) of this section. Projects within this priority group will be further prioritized the same as in paragraph (a)(1)(i) of this section.

(3) *Priority group 3.* An application not meeting the criteria of paragraph (a)(1) of this section but meeting the criteria of paragraph (a)(1)(ii) of this section. Projects within this priority group will be further prioritized the same as in paragraph (a)(1)(ii) of this section.

(4) *Priority group 4.* An application not meeting the criteria of paragraph (a)(1) of this section but meeting the criteria of paragraph (a)(1)(iii) of this section. Projects within this priority group will be further prioritized the same as in paragraph (a)(1)(iii) of this section.

(5) *Priority group 5.* An application not meeting the criteria of paragraph (a)(1) of this section but meeting the criteria of paragraph (a)(1)(iv) of this section. Projects within this priority group will be further prioritized the same as in paragraph (a)(1)(iv) of this section.

(6) *Priority group 6.* An application not meeting the criteria of paragraph (a)(1) of this section but meeting the criteria of paragraph (a)(1)(v) of this section. Projects within this priority group will be further prioritized the same as in paragraph (a)(1)(v) of this section.

(7) *Priority group 7.* An application not meeting the criteria of paragraph (a)(1) of this section but meeting the criteria of paragraph (a)(1)(vi) of this section. Projects within this priority group will be further prioritized the same as in paragraph (a)(1)(vi) of this section.

(b)(1) If a State accepts a partial grant for a project under § 59.80(a)(2), VA will give that project the highest priority for the next fiscal year within the priority group to which it is assigned (without further prioritization of that priority group) to receive up to 30 percent of the funds available for that year. Funds available do not include funds conditionally obligated in

the previous fiscal year under § 59.70(a)(2).

(2) If, in a given fiscal year, more than one State previously accepted a partial grant under § 59.80(a)(2), these partial-grant recipients will be further prioritized on the priority list for that fiscal year based on the date that VA first awarded a partial grant for the project (the earlier the grant was awarded, the higher the priority given). The partial-grant recipients, in aggregate, may receive up to 30 percent of the funds available for that year that would be set aside for partial-grant recipients.

(c) An application will be given priority on the priority list (after applications described in paragraph (b) of this section) for the next fiscal year ahead of all applications that had not been approved under § 59.20 on the date that the application was approved under § 59.20, if:

(1) During the current fiscal year VA would have awarded a grant based on the application except for the fact that VA determined that the State did not, by July 1, provide evidence that it had its matching funds for the project, and

(2) The State was notified prior to July 1 that VA had funding available for this grant application.

(d) The priority list will not contain any project for the construction or acquisition of a hospital or hospital beds.

(e) For purposes of establishing priorities under this section:

(1) A State has a great need for nursing home and domiciliary beds if the State:

(i) Has no State homes with nursing home or domiciliary beds, or

(ii) Has an unmet need of 2,000 or more nursing home and domiciliary beds;

(2) A State has a significant need for nursing home and domiciliary beds if the State has an unmet need of 1,000 to 1,999 nursing home and domiciliary beds; and

(3) A State has a limited need for nursing home and domiciliary beds if the State has an unmet need of 999 or fewer nursing home and domiciliary beds.

(f) Projects that could be placed in more than one subpriority will be placed in the subpriority toward which

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the preponderance of the cost of the project is allocated. For example, under priority group 1—subpriority 1, if a project for which 25 percent of the funds needed would concern seismic and 75 percent of the funds needed would concern building construction, the project would be placed in the subpriority for building construction.

(g) Once the Secretary prioritizes the applications in the priority list, VA will not change the priorities unless a change is necessary as a result of an appeal.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137)

[66 FR 33847, June 26, 2001, as amended at 71 FR 46104, Aug. 11, 2006]

§ 59.60 Additional application requirements.

For a project to be eligible for a grant under this part for the fiscal year for which the priority list was made, during that fiscal year the State must submit to VA an original and a copy of the following:

(a) Complete, updated Standard Forms 424 (mark the box labeled application and submit the information requested for an application), 424C, and 424D (these forms are available on the internet Web site provided in § 59.170 of this part), and

(b) A completed VA Form 10–0388–5 and all information and documentation specified by VA Form 10–0388–5 (this form is available on the internet Web site provided in § 59.170).

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137)

[66 FR 33847, June 26, 2001, as amended at 73 FR 58880, Oct. 8, 2008]

§ 59.70 Award of grants.

(a) The Secretary, during the fiscal year for which a priority list is made under this part, will:

(1) Award a grant for each application that has been approved under § 59.20, that is sufficiently high on the priority list so that funding is available for the application, that meets the additional application requirements in § 59.60, and that meets all other requirements under this part for obtaining a grant, or

(2) Conditionally approve a grant for a project for which a State has submitted an application that substantially meets the requirements of this part if the State representative requests conditional approval and provides written assurance that the State will meet all requirements for a grant not later than 180 calendar days after the date of conditional approval. If a State that has obtained conditional approval for a project does not meet all of the requirements within 180 calendar days after the date of conditional approval, the Secretary will rescind the conditional approval and the project will be ineligible for a grant in the fiscal year in which the State failed to fully complete the application. The funds that were conditionally obligated for the project will be deobligated.

(b) As a condition of receiving a grant, a State must make sufficient funds available for the project for which the grant is requested so that such project may proceed upon approval of the grant without further action required by the State (such as subsequent issuance of bonds) to make such funds available for such purpose. To meet this criteria, the State must provide to VA a letter from an authorized State budget official certifying that the State funds are, or will be, available for the project, so that if VA awards the grant, the project may proceed without further State action to make such funds available (such as further action to issue bonds). If the certification is based on an Act authorizing the project and making available the State's matching funds for the project, a copy of the Act must be submitted with the certification. To be eligible for inclusion in priority group 1 under this part, a State must make such funds available by August 15 of the year prior to the fiscal year for which the grant is requested. To otherwise be eligible for a grant and grant funds based on inclusion on the priority list in other than priority group 1, a State must make such funds available by July 1 of the fiscal year for which the grant is requested.

(c) As a condition of receiving a grant, the State representative and the Secretary will sign three originals of